

## INTERAGENCY ADVISORY GROUP

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June 22, 1967

**SUBJECT: PROPOSED EXECUTIVE ORDER**

**FROM: Irving Kator**  
Executive Vice-Chairman

**TO: Directors of Personnel**

In accord with the announcement at the IAG meeting of June 7, 1967, I am transmitting a discussion draft of an Executive order which would establish a Career Personnel System for Attorneys. Also attached is a copy of Chairman Macy's letter to heads of departments and agencies forwarding the draft for comment.

**Attachments**





U.S. CIVIL SERVICE COMMISSION  
OFFICE OF THE CHAIRMAN  
WASHINGTON, D.C. 20415

TEXT OF LETTER FORWARDED TO HEADS OF DEPARTMENTS  
AND AGENCIES REGARDING A CAREER PERSONNEL SYSTEM  
FOR ATTORNEYS

Over the years it has become increasingly clear that the present personnel system for attorneys has not been fully responsive to the needs of the Government or the attorneys as a group. Unlike other professional groups in the Federal service, the attorneys have not been included in a government-wide personnel system.

There has been duplication of effort in the recruiting process.

There has been considerable concern about promotion practices and other personnel management matters.

There has been a lack of transfer opportunity for attorneys to positions in the competitive service.

This has tended to restrict the career prospects of lawyers to narrow fields of specialization and to a single agency with detrimental consequences to both the individual attorney and the Government at large.

There has been limited availability of training, continuing legal education and other professional activity to assure progressive professional growth on the part of the lawyers who serve the Government over the span of a career.

These observations are not intended as criticism of individual agency efforts nor of the quality of the lawyers presently serving the agencies. Individual agency programs have been established to meet agency needs. What I am suggesting is that, from the standpoint of the Government as a whole, a fragmented approach such as we have now is not conducive to the most effective staffing of attorney positions and the most effective use of the attorneys employed. This suggestion takes the form of a centrally coordinated government-wide career system covering attorney positions presently in Schedule A of the excepted service.

To that end, the Commission has drafted an Executive Order to establish such a system. I am enclosing that draft for your review and comment. It has been developed over a period of time through consultation with agency general counsels, professional groups and other interested parties.

The system suggested would apply to all personnel actions affecting attorneys in Schedule A. Provision is made for coordinated recruiting and for a centralized information source. Appointment, promotion, transfer, and other personnel actions would be on the basis of merit and fitness. Channels would be opened up for freer movement of attorneys across occupational and agency lines. Provisions would be made for training, continuing legal education and professional activities.

The program would be operated by a Council on Federal Attorneys, the members of which would be appointed by the President from inside and outside the Federal service.

I will await with interest your reaction to this suggestion which I consider to be an important step toward improved personnel conditions for an essential segment of the Federal Staff.

Sincerely yours,

John W. Macy, Jr.  
Chairman

attachment

DISCUSSION DRAFT

EXECUTIVE ORDER

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WHEREAS the role of the Federal attorney in a government under law is becoming more vital as the complexities of government and society increase, and

WHEREAS the effectiveness and professional status of the Federal attorney would be materially enhanced by the establishment of a coordinated career system of employment providing for appointment and advancement on the basis of merit with full opportunity for professional growth and development,

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States, by section 3301 of title 5 of the United States Code, and as President of the United States, it is ordered as follows:

PART I - Career Personnel System for Attorneys

Section 101. There is hereby established a Career Personnel System for Attorneys. This system shall apply to the recruitment and selection of candidates for attorney positions that are excepted from the competitive service under Schedule A of the Civil Service Rules and to all personnel actions affecting persons in such positions.

Section 102. Appointment, promotion, transfer, and other personnel actions within the Career Personnel System shall be made solely on the basis of merit and fitness without discrimination as to race, national

origin, religion, age, sex, or political affiliation and in accordance with the laws relating to veterans' preference. Provision shall be made for:

- (1) adequate publicity of the opportunities to enter the Career Personnel System for Attorneys and open opportunity for interested persons to apply;
- (2) positive recruitment to solicit applications from likely sources of well-qualified candidates;
- (3) selection for appointment and promotion from among those found most competent;
- (4) suitability and qualification standards for appointment which shall meet minimum standards established by the Civil Service Commission;
- (5) provision for orientation and progressive training of attorneys, encouragement of their professional self-development, and full utilization of the authorizations for training in chapter 41 of title 5 of the United States Code to insure continuing legal education and professional growth throughout their careers; and
- (6) operation of the Career Personnel System for Attorneys to the fullest extent by means of interagency collaboration.

Section 103. An employee who completes one year of current continuous service in the Career Personnel System for Attorneys has the same rights in adverse action cases as those provided for employees in the competitive service, including the right of appeal to the Civil Service Commission.

Section 104. An employee who has served for at least three years in the Career Personnel System for Attorneys may be appointed to a position in the competitive service after such noncompetitive examination or other requirement as the Civil Service Commission prescribes. Such an employee acquires competitive status on appointment to the position in the competitive service.

Section 105. All attorneys serving under Schedule A appointments on the effective date of this Order are hereby brought under the Career Personnel System for Attorneys, and prior service as such an attorney shall be credited as service under the Career Personnel System for Attorneys for purposes of any rights or benefits established by this Order.

#### PART II - Council on Federal Attorneys

Section 201. There is hereby established the Council on Federal Attorneys. It shall be the function of the Council to implement the provisions of this Order, to operate the Career Personnel System for Attorneys, to issue regulations under this Order, to inspect for compliance with the Order and regulations issued pursuant thereto, and to report as necessary to the President on the condition of the Career Personnel System for Attorneys, and make such recommendations for improvement as it deems appropriate.

Section 202. The Council shall consist of the Attorney General of the United States and the Chairman of the Civil Service Commission (who shall be co-Chairmen of the Council), and seven members to be designated by the President, three as representatives of agencies which employ

attorneys and four as representatives of the public, including the professional associations and the academic community.

Section 203. The co-Chairmen of the Council shall serve ex officio as permanent members, and all others shall serve for a term not to exceed three years. Members shall originally serve for one, two, and three year terms as designated by the President and thereafter to the greatest extent practicable for overlapping terms.

Section 204. The Council may adopt rules and regulations to carry out its functions. The Council shall meet upon the call of either of the co-Chairmen and at such other times as may be provided by its rules and regulations. The Council may act by majority of its members present at a meeting.

Section 205. The Council may provide for such advisory committees as it deems appropriate.

Section 206. The co-Chairmen in agreement may appoint such personnel as may be necessary to assist the Council in the performance of its functions.

Section 207. In operating a Career Personnel System for Attorneys the Council shall:

- (1) Provide some central point to which attorneys may apply for information, learn of opportunities, and be assured of consideration for attorney positions;

- (2) take appropriate action to coordinate the recruitment of attorneys by the agencies employing them in order to promote economy, and avoid duplication of effort;
- (3) provide opportunity for all applicants to be considered by any employing agency unless an applicant, after notice of general opportunity, elects to restrict his application to a particular agency or position;
- (4) promote measures and policies that will help insure adequate facilities, appropriate support services, and a professional environment for the employment of attorneys;
- (5) provide leadership in the establishment of programs for orientation and progressive training of attorneys, encouragement of their professional self-development, and full utilization of the authorizations for training in chapter 41 of title 5 of the United States Code to insure continuing legal education and professional growth throughout their careers; and
- ✓ (6) require of the agencies such reports and data as it may consider necessary to assist it in administration of the Career Personnel System for Attorneys and enable it to secure compliance with this Order.



Section 208. Subject to general regulations of the Council the head of each agency employing attorneys shall:

- (1) cooperate with the Council in the implementation of its programs and policies through the establishment in his own agency of corresponding programs of action, including those as may best meet the needs of the agency for the selection, development, and merit advancement of high quality personnel.
- (2) cooperate with and assist the Council in the performance of its functions and furnish the Council and the Chairmen with such reports and information as may be requested; and
- (3) contribute to defraying necessary expenses of the Council and subordinate boards or committees, and furnish such necessary assistance to them as may be authorized by law, including section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691).

Section 209. The Council may obtain services in accordance with section 3109 of title 5 of the United States Code.

Section 210. The Department of Justice shall provide administrative services for the Council on a reimbursable basis.

Section 211. Members of the Council who are employees of the Federal Government shall receive no additional pay by virtue of membership on the Council. Other members of the Council are entitled to pay and travel allowance including per diem in lieu of subsistence as authorized by law (5 U.S.C. 3109; 5 U.S.C. 5703) for persons in the Government service employed intermittently.

#### PART III - Effective Date

Section 301. This Order is effective upon filing for publication in the Federal Register except that appointing officers may continue to fill attorney positions under existing authority and procedures until the Council publishes in the Federal Register notice of the date on which it will be prepared to receive applications and make the Career Personnel System for Attorneys fully operative. This date shall be no later than one year from the date of this Order. Thereafter appointments to attorney positions covered by this Order shall be made in accordance with this Order and regulations issued under it.

THE WHITE HOUSE

Section Analysis  
of  
Discussion Draft -- Executive Order  
for  
Establishing a Career Personnel System for Attorneys

Section 101 provides for the establishment of the Career Personnel System which would apply to recruitment and selection for attorney positions in Schedule A and to all personnel actions affecting persons in such positions. The Career Personnel System would not apply to attorneys excepted under other schedules. These would include key positions which are policy determining or which require a close personal relationship between the attorney and the agency head or his key officials.

Section 102 outlines the principal characteristics of the Career Personnel System. Appointment, promotion, transfer and other personnel actions would be on a merit basis. Provision would be made for publicizing career opportunities, and for positive recruitment efforts to obtain well-qualified candidates. Suitability and qualification standards for appointment would have to meet minimum standards established by the Civil Service Commission. Provision would be made for the establishment of training and career development programs specifically designed for attorneys using the authorizations for training in chapter 41 of title 5 of the United States Code. The Career Personnel System would operate to a large extent by means of interagency collaboration.

It is expected that outside groups such as bar associations would be asked to participate in the evaluation of candidates for attorney positions. Experience, education, and personal qualities would be the three basic areas of a candidate's background to be measured. The principal methods of evaluation would probably be rating of experience, written inquiries to schools and employers, oral interviews, and qualification investigations.

Section 103 would accord attorneys who complete one year of service in the Career System the same rights in adverse action cases as are available to persons in the competitive service, including appeal to the Civil Service Commission. Under the present system, the only Schedule A attorneys accorded these rights are those with veteran preference.

Section 104 would permit attorneys who have been in the Career System for three or more years to be appointed noncompetitively to competitive positions. Under the present system a Schedule A attorney who desires

to transfer to a non-attorney position in the competitive service has to compete for the position in the same way as any outsider does. Persons with career status in the competitive service and employees of certain merit systems in the excepted service are now permitted to move noncompetitively to other jobs and other agencies if they meet qualification requirements for the job they seek.

Section 105 provides for the inclusion in the Career System of all attorneys serving under Schedule A on the effective date of the order.

Section 201 provides for the establishment of the Council on Federal Attorneys which would exercise overall responsibility for supervising, implementing, and coordinating the Career System.

Section 202 is concerned with the composition of the Council. There would be two co-chairmen, the Attorney General and the Chairman of the Civil Service Commission, and seven members designated by the President, including three from agencies employing attorneys and four representatives of the legal profession generally. At least one would be a representative of a professional association and at least one would be an educator.

Section 203 sets the terms of office for the Council members. The co-chairmen would be permanent members, and the others would have staggered terms of one, two, or three years.

Section 204 provides for the adoption of rules and regulations to carry out the function of the Council. The Council would be authorized to act by majority of its members present at a meeting.

Section 205 authorizes the appointment of such advisory committees as the Council deems appropriate. Advisory committees would be used to help devise training programs, patterns of career development, mobility programs, methods of evaluating attorneys, etc.

Section 206 authorizes the co-chairmen to appoint such personnel as may be necessary to assist the Council in the performance of its functions.

Section 207 outlines the principal responsibilities of the Council in operating the Career System which would include provision for a central source of information about attorney positions, coordination of recruitment, opportunity for consideration of all applicants for attorney positions, measures to help insure adequate facilities and a career environment for attorneys, and leadership in fostering continuing legal education and professional growth.

Section 208 sets forth the responsibilities of the agencies in implementing the System which would include the establishment of their own internal policies and programs to translate into action and adapt to their specific needs all the more general ones of the Council. Agencies are also required to cooperate with the Council in performing its functions and to contribute to defraying the expenses of the Council.

Section 209 authorizes the Council to obtain the temporary or intermittent services of experts and consultants in accordance with 5 U.S.C. 3109.

Section 210 provides that the Department of Justice shall furnish administrative services for the Council on a reimbursable basis.

Section 211 provides that members of the Council who are Government employees shall receive no additional pay by virtue of their membership on the Council. Other members would be entitled to pay and travel allowances including per diem in lieu of subsistence as authorized by 5 U.S.C. 3109 and 5 U.S.C. 5703.

Section 301 sets the effective date of the operational aspects of the new system at not less than one year from the date of the Order. The Career System itself, however, is established on the effective date of the Order. Attorneys entitled to any rights and benefits under the terms of the Order would gain them immediately or as soon as they qualify without waiting for the year allowed for the establishment of recruitment and appointment procedures.

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